

HOUSE BILL NO. 99

INTRODUCED BY LANGE, HIMMELBERGER, ROBERTS

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE PENALTIES FOR DRIVING WHILE THE PERSON'S LICENSE IS SUSPENDED OR REVOKED IF THE REASON FOR THE SUSPENSION OR REVOCATION WAS THAT THE PERSON WAS CONVICTED OF DRIVING UNDER THE INFLUENCE OR WITH AN EXCESSIVE ALCOHOL CONTENT OR THE SUSPENSION WAS FOR REFUSAL TO TAKE A TEST FOR ALCOHOL OR DRUGS REQUESTED BY A PEACE OFFICER WHO BELIEVED THAT THE PERSON MIGHT BE DRIVING UNDER THE INFLUENCE; AND AMENDING SECTIONS 61-5-212 AND 61-8-733, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-5-212, MCA, is amended to read:

"61-5-212. Driving while license suspended or revoked -- penalty -- seizure of vehicle or rendering vehicle inoperable. (1) (a) A person commits the offense of driving a motor vehicle during a suspension or revocation period if the person drives:

(i) a motor vehicle on any public highway of this state at a time when the person's privilege to do so is suspended or revoked in this state or any other state; or

(ii) a commercial motor vehicle while the person's commercial driver's license is revoked, suspended, or canceled in this state or any other state or the person is disqualified from operating a commercial motor vehicle under federal regulations.

(b) A person convicted of the offense of driving a motor vehicle during a suspension or revocation period shall be punished by imprisonment for not less than 2 days or more than 6 months and may be fined not more than \$500, except that if the reason for the suspension or revocation was that the person was convicted of a violation of 61-8-401 or 61-8-406 or a similar offense under the laws of any other state or the suspension was under 61-8-402 or 61-8-409 or a similar law of any other state for refusal to take a test for alcohol or drugs requested by a peace officer who believed that the person might be driving under the influence, the person shall be punished by imprisonment for A TERM NOT TO EXCEED 1 year or a fine of NOT TO EXCEED \$10,000 OF NOT LESS THAN 15 DAYS OR MORE THAN 6 MONTHS OR A FINE OF NOT TO EXCEED OF NOT LESS THAN 2 DAYS OR MORE THAN 6 MONTHS OR A FINE NOT TO EXCEED \$2,000, or both, AND IN ADDITION, THE COURT MAY ORDER THE PERSON TO PERFORM

1 UP TO 40 HOURS OF COMMUNITY SERVICE.

2 (2) (a) The department upon receiving a record of the conviction of any person under this section upon
3 a charge of driving a noncommercial vehicle while the person's driver's license or privilege to drive was
4 suspended or revoked shall extend the period of suspension or revocation for an additional 1-year period.

5 (b) Upon receiving a record of the conviction of any person under this section upon a charge of driving
6 a commercial motor vehicle while the person's commercial driver's license was revoked, suspended, or canceled
7 or the person was disqualified from operating a commercial motor vehicle under federal regulations, the
8 department shall suspend the person's commercial driver's license in accordance with 61-8-802.

9 (3) The vehicle owned and operated at the time of an offense under this section by a person whose
10 driver's license is suspended for violating the provisions of 61-8-401, 61-8-402, 61-8-406, 61-8-409, or 61-8-410
11 must, upon a person's first conviction, be seized or rendered inoperable by the county sheriff of the convicted
12 person's county of residence for a period of 30 days.

13 (4) The sentencing court shall order the action provided for under subsection (3) and shall specify the
14 date on which the vehicle is to be returned or again rendered operable. The vehicle must be seized or rendered
15 inoperable by the sheriff within 10 days after the conviction.

16 (5) A convicted person is responsible for all costs associated with actions taken under subsection (3).
17 Joint ownership of the vehicle with another person does not prohibit the actions required by subsection (3)
18 unless the sentencing court determines that those actions would constitute an extreme hardship on a joint owner
19 who is determined to be without fault.

20 (6) A court may not suspend or defer imposition of penalties provided by this section."
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22 **Section 2.** Section 61-8-733, MCA, is amended to read:

23 **"61-8-733. Driving under influence of alcohol or drugs -- driving with excessive alcohol**
24 **concentration -- forfeiture of vehicle.** (1) On the second or subsequent conviction of a violation of 61-8-401
25 or 61-8-406 or a second or subsequent conviction under 61-5-212 when the reason for the suspension or
26 revocation was that the person was convicted of a violation of 61-8-401 or 61-8-406 or a similar offense under
27 the laws of any other state or the suspension was under 61-8-402 or 61-8-409 or a similar law of any other state
28 for refusal to take a test for alcohol or drugs requested by a peace officer who believed that the person might
29 be driving under the influence, the court, in addition to the punishments provided in 61-5-212, 61-8-714, and
30 61-8-722 and any other penalty imposed by law, shall order that each motor vehicle owned by the person at the

1 time of the offense be either seized and subjected to the procedure provided under 61-8-421 or equipped with
2 an ignition interlock device as provided under 61-8-442.

3 (2) A vehicle used by a person as a common carrier in the transaction of business as a common carrier
4 is not subject to forfeiture unless it appears that the owner or other person in charge of the vehicle consented
5 to or was privy to the violation. A vehicle may not be forfeited under this section for any act or omission
6 established by the owner to have been committed or omitted by a person other than the owner while the vehicle
7 was unlawfully in the possession of a person other than the owner in violation of the criminal laws of this state
8 or the United States.

9 (3) Forfeiture of a vehicle encumbered by a security interest is subject to the secured person's interest
10 if the person did not know and could not have reasonably known of the unlawful possession, use, or other act
11 on which the forfeiture is sought."

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